




COUNCILMEMBER DONNA FRYE
City of San Diego
Sixth District

MEMORANDUM

DATE: May 22, 2007

TO: Mayor Jerry Sanders
City Attorney Michael Aguirre
Deputy City Attorney for Disclosure, Mark Blake
CFO/City Auditor (Unofficial), Jay Goldstone

FROM: Councilmember Donna Frye 

SUBJECT: Issuance of 2007 Tax Allocation Bonds Follow-up

This is a follow-up to my May 14, 2007 memorandum regarding the *"Approval of the Issuance of 2007 Tax Allocation Bonds, Notes or Loans in the Total Amount of \$42,000,000 to Finance and Refinance Portions of Costs of Three Redevelopment Projects."* The item was docketed for the May 15, 2007 City Council and Redevelopment Agency meetings, but was continued until May 22. I have received documents from Mark Blake and Greg Levin that have been responsive to some of the questions in my May 14, 2007 memo. Therefore, only the following questions and/or requests for more information from my May 14 memorandum remain, and are noted in bold print.

1. The Southeastern Economic Development Corporation (SEDC) does not have current audited annual financial reports, nor audited financial reports for FY 2002-2003 through 2004-2005. **When was the last Fiscal Year that SEDC and the Redevelopment Agency had an audited financial report, and who issued the independent auditors' opinion?**
2. Given the fact that there are no audited financial reports, **what specific procedures were followed to ensure that the financial information is accurate and not misleading?**
3. **What financial internal controls are in place at SEDC, the Redevelopment Agency, and the City of San Diego to ensure that the financial information being provided in the Preliminary Official Statement (POS) can be relied upon?**

4. Much of the information on page 6 of the POS (Certain Investigations Regarding the City) is outdated. For example, according to a letter from KPMG, dated May 3, 2007, it states that KPMG's engagement is completed whereas the information provided on page 6 states otherwise. I have taken note that there is a bracketed statement on that page "*(to be updated – M. Blake)*"; **however, the City Council must be provided with all updated information in advance of any proposed action.**
5. There are many blank pages and/or incomplete information on pages throughout the documents provided to the City Council for review. **Please provide an explanation for all such pages and also when the missing information will be provided.**
6. **Is the City Attorney's investigation of and subsequent report regarding SEDC disclosed in the POS? What corrective actions has SEDC taken to ensure such problems do not occur in the future? Have the issues pointed out in the report been corrected?**
7. The IBA's Report Number 07-51 also indicates that the Redevelopment Agency met with Moody's Ratings recently, and expects to receive a rating by May 18, 2007. **The City Council should have that information before voting on this bond issuance.**

In addition to requesting a written response to the above questions, I also have additional questions, which are provided below. I am requesting written responses to these questions as well. It is necessary to know: the total debt already owed by each of SEDC's Redevelopment Project Areas, the amount of tax increment revenue that is already pledged to pay the current debt, the amount of proposed new debt for each Redevelopment Project Area, the debt limits for each of the Project Area, whether any of the debt limits would be exceeded if new debt were issued, whether the tax increment revenue is sufficient to pay for all the debt (both existing and new) and whether all debt has been properly disclosed.

8. **How much is the Southcrest Redevelopment Project Area proposing to borrow? How much is the Central Imperial Redevelopment Project Area proposing to borrow? How much is the Mount Hope Redevelopment Project Area proposing to borrow? Please include both principal and interest for each project area as well as the cost of issuing the bonds and funding the debt service reserve surety bonds for the Bonds.**
9. Throughout the Preliminary Official Statement (POS), there are references to a "*Report of the Financial Consultant*" (Appendix A). For example, in the Certificate of Robinson & Pearman, LLP to the Disclosure Practices Working Group, it states that the POS includes a Fiscal Consultant's Report (Appendix A). In addition, the Certificate that was signed by Keyser Marston Associates, Inc. states that they prepared the Fiscal Consultant Report, dated March 8, 2007. The

documents that I have received to review do not appear to include an Appendix A. **Please indicate where in the documents Appendix A can be found.**

10. The POS also has references to Appendix C, Appendix E and Appendix G. including references in the Table of Contents. However, in the document that I have received, those pages are blank. **Please indicate where in the documents Appendices C, E and G can be found.**
11. SEDC has outstanding debt that it owes to the Redevelopment Agency. The Redevelopment Agency is required to repay that debt to the City of San Diego (both principal and interest). According to the most current information available as of June 30, 2006, in the SEDC Administered Project Areas there is currently \$71, 698,972 in debt owed by SEDC to the Redevelopment Agency. Mr. Greg Levin provided this information to me in a memorandum dated November 21, 2006, in response to questions I raised regarding the unaudited Fiscal Year 2003 Draft Comprehensive Financial Report (CAFR). **This information needs to be disclosed and should include SEDC's debt repayment schedule to the Redevelopment Agency as well as the funding source for the loan repayments. In addition, please provide the loan repayment schedule for all debt owed to the City of San Diego by the Redevelopment Agency.** Mr. Levin's November 21, 2006 memo can be found at the link below (go to his response #4): <http://www.sandiego.gov/citycouncil/cd6/pdf/levin061121.pdf>
12. In addition, according to Mr. Levin's memorandum, SEDC receives Operating Subsidies from the Redevelopment Agency to *"support the ongoing administrative costs associated with the operations of each non-profit corporation."* **Please provide the amount of the SEDC operating subsidy that the Redevelopment Agency has provided since SEDC's inception. What is the amount of the SEDC operating subsidy in 2007 and the source of revenue for that subsidy? Also, please provide the amount of proposed SEDC operating subsidy that the Redevelopment Agency may provide for FY 2008, and the source of revenue.**
13. It appears that the operating subsidy to SEDC (from 2002 through 2006) is \$7,776,400. **Does the operating subsidy require repayment to the source of the subsidy? IF SEDC did not receive an Operating Subsidy, would this hinder in any way their ability to meet their loan repayment obligations to the Redevelopment Agency?**
14. According to the POS, *"The proceeds of the Bonds are used by the Authority to make five separate loans to the Agency for the three Redevelopment Project Areas..."* **Should the Redevelopment Agency's financial statement and the total current Agency debt be disclosed in the POS?**
15. The Certificate that was signed by the Redevelopment Agency Bond Counsel, Robinson & Pearman LLP, states that they have read the Draft POS, but *"have*

not independently verified the factual information in the Draft POS, nor were we retained to do so..." Was anyone retained to independently verify either the factual or financial information contained in the POS? If so, who performed the independent verification and when?

16. According to the POS (see the second set of pages numbered as page 6), there is a Tax Increment Limitation, which is the maximum amount of Tax Revenues which the Redevelopment Agency may receive from the Redevelopment Project Areas. The maximum amount for Southcrest is \$87 million, for Central Imperial it is \$142 million and for Mount Hope, the amount is \$47 million. Of that Tax Revenue total, Southcrest has collected over \$9 million in tax increment; Central Imperial has collected over \$6 million and Mount Hope has collected over \$15 million. **Should the Tax Revenues already received be identified and deducted from the total Tax Revenue remaining for each Project Area (in order to determine the amount of Tax Increment Revenue that could be used for new debt to make the loan repayments to the Redevelopment Agency)?**
17. On page 12 of the POS (the second page numbered page 12, second paragraph) it discusses when and how the Redevelopment Agency may receive and pay indebtedness with proceeds from property taxes in accordance with Section 33670 of the Redevelopment Law. The paragraph concludes by stating that. *"There is presently no such outstanding debt."* **Please provide a description and examples of the type of debt to which this paragraph is referring. For example, would Redevelopment Agency debt from City of San Diego loans meet these criteria? The paragraph also refers to debt from the Housing Fund. What is this?**
18. On page 18 of the POS, it states that the Southcrest Redevelopment Project Area has bonded indebtedness that is secured by tax increment. **How much is that loan (principal and interest) and how much tax increment revenue has been secured to pay the bonded indebtedness?** I did note that on page 1 of the Loan Agreement and Third Supplemental Trust Agreement for Southcrest Redevelopment, under the Recitals, C. it states that the Agency had previously issued \$3,750,000 in tax allocation bonds to Southcrest in 1995 and \$1,860,000 in tax allocation bonds in 2000 to Southcrest.
19. On page 18 of the POS, there is a reference to the *"Plan of Finance"* for the Southcrest Redevelopment Project Area. **Please provide the page number in the POS for that Plan of Finance.**
20. On page 25 of the POS, it states that the Central Imperial Redevelopment Project Area has bonded indebtedness that is secured by tax increment. **How much is that loan (principal and interest) and how much tax increment revenue has been secured to pay the bonded indebtedness?** I did note that on page 1 of the Loan Agreement and Second Supplemental Trust Agreement for the Central

Imperial Hope Redevelopment Project, under the Recitals C., it states that the Agency had previously issued \$3,395,000 in tax allocation bonds in 2000.

21. On page 25 of the POS, there is a reference to the "*Plan of Finance*" for the Central Imperial Redevelopment Project Area. **Please provide the page number in the POS for that Plan of Finance.**
22. On page 31 of the POS it states that in addition to the indebtedness under the Loan related to the Mount Hope Redevelopment Project Area, the Redevelopment Agency appears to have indebtedness under the loan related to bonds issued in 1995, outstanding in an aggregate principal amount of \$840,000, and indebtedness under the loan related to bonds issued in 2002, outstanding in an aggregate principal amount of \$3,055,000. There does not appear to be any reference to a Plan of Finance, unlike the other two project areas. **Should there be a Plan of Finance for Mount Hope included in the POS?**
23. On page 1 of the Loan Agreement and Fourth Supplemental Trust Agreement, under Recitals, C. it notes that the Agency previously has issued \$1,200,000 aggregate original principal amount of Mount Hope Bonds in 1995 A; \$3,395,000 aggregate original principal amount of Mount Hope Bonds in 1995 B and \$3,055,000 aggregate original principal bonds in 2002. **Please explain why the information provided in the Loan Agreement is different than the information provided in the POS. Has some of the debt been repaid?**
24. As of June 30, 2006, Southcrest owes the Redevelopment Agency \$18,807,765; Central Imperial owes \$29,312,283 and Mount Hope owes \$4,481,149 for loans made to the Redevelopment Agency by the City of San Diego. **Would the debt owed to the Redevelopment Agency reduce the maximum amount of Tax Revenues that could be used by the Southcrest, Central Imperial or Mount Hope Project Areas to pay for new debt service? How is the debt to the Redevelopment Agency accounted for in SEDC's financial disclosures in the POS, and where is it shown?**
25. **Is there any other debt that is owed by the SEDC Project Areas to the Redevelopment Agency or anyone else that is not disclosed and/or that may affect the Redevelopment Agency's ability to pay back the debt it owes to the PFFA, the City or anyone else?**
26. According to Table 1 in the POS (second page 12 in the POS numbered page 12), the Debt Limit for Mount Hope is \$14.2 million. The debt owed to the Redevelopment Agency by the Mount Hope Project Area is over \$18 million, not including existing debt service for bonds. **In order to determine if the Debt Limit has been exceeded, would that amount be subtracted from the Debt Limit amount?** If so, the remaining Debt Limit would appear to be a negative \$3.8 million. In other words, the amount of debt owed to the Redevelopment Agency by the Mount Hope Project Area (before any new debt is even incurred)

already seems to exceed its Debt Limit by approximately \$3.8 million. **Is this correct and has the Mount Hope Project Area exceeded their Debt Limit?**

27. The total Debt Limit for the Southcrest Project Area appears to be \$26,100,000 (shown in the POS in Table 1 on the second page 12 numbered page 12). Southcrest owes the Redevelopment Agency over \$18 million for money the Redevelopment Agency borrowed from the City of San Diego, not including existing debt service for bonds. **Would the existing debt combined with the new debt cause the Debt Limit to be exceeded or does the Debt Limit amount that is shown include existing and/or new debt? If not, is it legal and shouldn't it be disclosed in the POS?**
28. The total Debt Limit for the Central Imperial Project Area appears to be \$46,200,000 (shown in the POS in Table 1 on the second page 12 numbered page 12). Central Imperial owes the Redevelopment Agency over \$29 million, for money the Redevelopment Agency borrowed from the City of San Diego, not including existing debt service for bonds. **Would the existing debt combined with the new debt cause the Debt Limit to be exceeded or does the Debt Limit amount that is shown include existing and/or new debt? If not, is it legal and shouldn't it be disclosed in the POS?**

Finally, I have attached two articles from the *Voice of San Diego* regarding SEDC to ensure that I disclose any material information of which I am aware. I would also refer you to the City Attorney's Report on SEDC, which is not attached, but is available from the City Attorney.

Attachments: articles from *Voice of San Diego*

Cc, City Councilmembers
Andrea Tevlin, IBA
Greg Levin, Deputy Comptroller
Stanley Keller

Articles from *Voice of San Diego*

Affordable No More

By ANDREW DONOHUE Voice Staff Writer

Monday, Oct. 2, 2006 | Like so many other homes in the red-hot San Diego real estate market, 571 Drew View Lane rode the boom to the maximum. The brand-new home sold for \$181,000 in 2000. Five years and four owners later, it went for \$499,999.

It wasn't supposed to.

Built with the help of public funds and with the aim of bringing new, affordable homes to San Diego's southeastern neighborhoods, 571 Drew View Lane was to stay in the hands of low-and-moderate income residents for the first 10 years of its existence.

But 571 Drew View Lane instead became a perfect tool for the get-rich-quick spirit that pervaded the market in recent years. At the market's peak, one buyer, Lisa Pham, purchased the home on Feb. 17, 2005 for \$399,999 and sold it again for \$499,999 on Sept. 26, 2005, reaping a \$100,000 profit in just more than seven months.

A document required to be filed alongside an affordable home's deed at the county Recorder's Office would have given the Southeastern Economic Development Corp. -- the city of San Diego's redevelopment arm for the neighborhood -- final approval of any sales. That would have allowed the agency to veto any sale that didn't leave the home in the hands of someone of low or moderate means.

The agency and the project's developer failed to file the document for 22 of the 23 homes at the Village at Euclid development, and from the moment 571 Drew View Lane sold to its first owner, it quickly slipped from the city's affordable housing stock and into the region's rambunctious home market.

The brief, but busy, history of 571 Drew View Lane is one of a number of examples found by *voiceofsandiego.org* that illustrate how lax agency oversight and enforcement allowed the limits of the program designed to bring affordable homeownership to one of San Diego's working-class neighborhoods to be stretched and, at times, crossed by homebuyers, an agency consultant and at least one developer.

A review of two affordable housing projects completed in the last six years found instances in which SEDC has failed to properly enforce both affordable housing standards and its agreements with Carter Reese & Associates -- a developer headed by SEDC's former president.

As a result, the agency has been unable to monitor its affordable housing restrictions on all but one of the 23 homes in the Village at Euclid development, including the four units that were to be restricted to certain income levels for their first 10 years of existence. At least two of those homes have changed hands multiple times without agency oversight, allowing the owners to reap the windfalls of a sizzling housing market with the help of public funds, as well as diluting the agency's efforts to meet the state mandate that 15 percent of homes in the Southeast redevelopment area be considered "affordable housing."

In the same development, Carter Reese & Associates sold a number of homes each for at least \$10,000 more than they were authorized by the San Diego City Council. Doing so drove up the cost of homes for the purchasers and boosted the firm's bottom line by at least \$72,000.

And in a similar housing development built four years later, Carter Reese & Associates awarded one of the projects' affordable homes to an SEDC consultant. The contractor, Angela Harris, worked briefly on the Village at Euclid project and receives between \$45,000 and \$50,000 a year in SEDC funds.

Five months after purchasing the home, Harris received a \$50,000 contract extension for her SEDC work. She has since refinanced the house twice, cashing out \$124,000 in equity in the two years since she purchased the home -- potentially driving it out of the affordable range if it were to be put up for sale because of the increased size of the mortgage.

The projects also demonstrate the awkwardness with which some government agencies tried to control a housing market gone berserk and monitor a resident's homeownership for a decade or more.

SEDC President Carolyn Smith said there was no intent to allow "anyone to get away with anything." SEDC officials described the miscues in Village at Euclid as an administrative mix-up that took place years ago -- a blemish in an otherwise successful organization that provided lessons. They said Harris received no special treatment because of her status as an SEDC consultant.

After the project was completed, officials scrambled to have owners sign and register the vital documents retroactively, but without success.

One employee raised concerns regarding the lack of documentation and the inflated home prices directly to the City Council in February 2002 before Carter Reese and SEDC embarked on another partnership. She was fired four months later for "continuous insubordination."

Attorney Catherine Rodman, who represents low-income clients in affordable housing cases, said affordable housing projects often turn out to be quite different from what is originally proposed.

"There is nobody watchdogging it, and these are scarce public dollars that people really need," she said. "They've got this money, they're kind of spending it as they spent it, and then it's gone."

Village at Euclid

The original agreement between Carter Reese and SEDC for Village at Euclid, crafted in 1997, looked like an affordable housing dream. In exchange for a \$210,000 loan from SEDC's housing fund, the developer agreed to several conditions. All 23 homes were to be kept affordable for those in the low-to-moderate income range -- between 80 percent and 120 percent of the area median income. Using the money paid back from the loan, the agency was to offer \$200,000 to fund a homebuyers assistance program at more than \$8,000 a home.

At least five of the homes were to carry restrictions on the deeds ensuring that people of low-and-moderate income owned them for the following 10 years.

But by the time Village at Euclid's denizens first walked through the doors in 2000, the development had changed considerably, from the price restrictions to the number of affordable units to be offered.

In its original agreement with the SEDC and its umbrella organization, the Redevelopment Agency, Carter Reese envisioned building 23 homes in three different styles and price ranges. The agreement called for four 1,375-square-foot, "Logan-style" homes to be sold at \$135,000; nine 1,675-square-foot, "Crawford-style" homes at \$155,000; and 10 1,875-square-foot, "Williams-style" homes at \$165,000.

SEDC documents, as well as communications between the developer and SEDC, show that the agreement mutated during the three years of planning

and construction. Saying unforeseen costs, the return of a vibrant housing market, and more costly construction materials had changed the economics of the deal, the developer received \$40,000 in agency funds to help build a storm drain and an \$80,000 loan to cover other costs. As part of the give-and-take, the amount of affordable housing rose and sank, and SEDC and the City Council permitted the developer to raise the price caps to allow the homes to be sold for more than was originally envisioned.

But, ultimately, what was built didn't match-up with the final deal worked out in the agreement and approved by City Council.

In the end, Carter Reese sold all five Crawford-style homes that were built for between \$191,000 and \$198,000, surpassing the authorized cap of \$181,000.

In total, the homes sold for a combined \$72,000 more than authorized, increasing the new homeowners' costs and the developer's bottom line. Also, four more homes that were envisioned in the contract to be built as the mid-level Crawford-style homes were instead built as the larger Williams-style homes, selling for between \$205,000 and \$206,000. If they'd been built in the Crawford style -- about 200 square feet smaller than the Williams style -- and with the \$181,000 price cap, Carter Reese would have had to sell the homes for a combined \$99,000 less.

Those changes would have given Carter Reese an additional \$171,000 boost in a project estimated to turn a \$350,000 profit.

Reese Jarrett, cofounder of Carter Reese & Associates and head of the project, denied numerous requests for comment for this story. Royce Jones, SEDC's outside lawyer, said that because the final amendments don't include any language referring to the sizes of homes that could be built, the developer was given freedom "to move around." Jarrett offered the same assessment when an SEDC employee brought up the issue in a number of letters in 2000 and 2001. In a July 25, 2000 letter, Jarrett wrote that the housing mix described in the original loan agreement "was for purposes of description only."

The specific housing mix was laid out in the original loan agreement. Unlike the rest of the alterations made to the agreement during the three-year process, the changes to the housing-style mix were never addressed in any of the amendments approved by City Council.

"Our only concern was the units that were going to be the affordable housing," Jones said.

Jones and Smith said the project contained four affordable units. Documents indicate that Carter Reese only intended to offer two affordable units. However, the number that was actually offered to those who qualified as low-and-moderate income buyers is unclear because the requisite paperwork -- known as a notice of restriction -- is not on file with the San Diego County Recorder's Office.

The notice of restriction is a vital document in the affordable housing process because it allows the government to ensure that affordable homes remain in the hands of those they are intended for beyond the original sale. Signed by the homeowner and mandated in the loan agreement, the document requires the owner provide the proper documentation to prove that subsequent buyers meet the low-and-moderate income standards. The document also gives the agency the right to file an injunction prohibiting the sale of the home to anyone who doesn't qualify under the income requirements.

The document is an attempt to regulate the balance of a program intended to make homeownership achievable to a certain class, but that must also keep the home in the affordable range for a given time frame -- and make sure that public money isn't used to gain outsized profits.

The idea of forming redevelopment areas came about as a way to revitalize downtrodden neighborhoods. It allows local governments to capture and reinvest a greater share of the taxes collected in the area that otherwise would have escaped and gone on to other higher levels of government. In turn, the government agency overseeing the area must ensure that 15 percent of homes there be considered affordable to those of low and moderate incomes. Redevelopment agencies such as SEDC team with developers to provide funding in exchange for the construction of affordable housing.

In Village at Euclid, portions of a handful of notices of restriction were completed and are on file with SEDC, but they aren't on file with the county recorder.

When confronted with the lack of notices, SEDC officials said a superseding document filed on the entire project before the individual home sales had allowed them to continue to monitor the affordable housing standards.

However, they were unaware that two of the units that appear to have been intended for affordable housing had been bought and sold numerous times. They couldn't provide evidence showing that the agency had monitored or approved any of the home sales.

For example, Lot 3 in the Village at Euclid development was purchased by George S. and Bernice Lewis. They bought the home, which eventually became 571 Drew View Lane, in 2000 for \$181,000.

They then sold the home Oct. 28, 2003 to Hong Dinh for \$350,000, nearly doubling their initial investment. On Feb. 17, 2005, Dinh sold the home to Lisa Pham for \$399,999. Months later, on Sept. 26, Pham sold the home for \$499,999, reaping a \$100,000 profit.

Likewise, 554 Drew View Lane was bought by Cheng and Souprany "Prany" Sumontha for \$174,000. The couple sold the home Aug. 12, 2003 for \$342,000 to Tuyet Nguyen, who sold again Dec. 9, 2005 for \$485,000. It appears that 554 Drew View Lane would've been one of the affordable units in the development, as it had the lowest selling price in Village at Euclid. Under the terms of the loan agreement, the affordable units were to be offered to those making below 120 percent of the area median income. Currently, a three-bedroom home such as these two units can't be sold for more than \$363,000 to still be considered "affordable housing" for someone making 150 percent of the area median income, according to the guidelines of the San Diego Housing Commission, the city's public housing authority.

Had SEDC properly monitored the sales of these homes, they would have been able to ensure that the purchaser in each case qualified for the low-and-moderate income standards. That, in turn, would have likely kept prices from skyrocketing.

Smith said "the best intentions were there." She said she couldn't verify whether or not the agency had approved the sales. Smith said the developer's sales agents got out ahead of SEDC officials at the start of the project in selling the homes, and pointed out that the agency later attempted to get notices put on the homes.

"We made every effort we could," Smith said. "We learned from this instance."

At least two mid-level SEDC employees were aware of the problems as the project progressed and attempted to correct them. One of them was later fired.

Beginning in July 2000, SEDC project liaison Marie Humphrey wrote a series of letters to Jarrett warning that the project didn't comply with loan agreement because sales prices in the project's brochures were higher than authorized, that the housing mix didn't match up with the loan agreement and that the proper notices of restriction weren't being recorded as the homes were being sold.

Jarrett responded in a July 25, 2000 letter, indicating that one affordable lot had already been sold. He assured Humphrey that the remaining three buyers of the affordable homes would sign the restrictions. And Jarrett contended that the \$181,000 price cap for the mid-size homes had been removed in a copy of the third amendment that he'd received from SEDC. However, the third amendment approved by the City Council on April 11, 2000, makes no reference to any changes to the prescribed sales price caps for the homes. Rather, it authorizes extending an \$80,000 loan to Carter Reese because it had incurred unforeseen expenses such as concrete debris, utility issues and city processing fees.

A day later, Humphrey's colleague, Sherry Brooks, wrote to Royce Jones seeking his advice on how to handle the lack of documentation on the homes.

"A buyer who is expecting to close escrow in a few weeks has called us about the income restrictions and is all upset as he was not informed of this before this time," she wrote. "We need to know how to react to this call as well as the developer's letter."

No response from Jones was found in the agency's document files. Nine months later, Humphrey continued to push Jarrett. In an April 10, 2001 letter, she reiterated her early concerns and also noted that some notices were allowing the homes to be rented, contrary to the loan agreement's mandate that all homes be occupied by the owners for the first 10 years.

In addition to the documents that were to be placed on the four affordable units, the remaining 19 homes were to have a restriction on them: that the homeowner live in the residence for at least 10 years to create true ownership rather than income-making rental properties.

Jarrett -- who gave Smith her first job at SEDC while serving as the agency's president in the 1980s -- acknowledged the documentation problem in a letter later that month. But he said he and his associates had tried to fulfill the notice requirement, noting that many "of the homeowners were confused or wary of signing the restrictive documents, especially those people who received their documents *after* they had purchased their properties."

Jarrett then explained that a number of corrections had to be made to the third amendment. He asked that the amendment allow him to make only two units "affordable housing" and that there be no price restrictions for the two largest models.

But the homes had already been built and sold, and the City Council had already approved a third amendment didn't address either of those two vital conditions -- which greatly changed the make-up of the project. In February 2002, when a following partnership between Carter Reese and SEDC was being planned, Humphrey continued to stress her concerns, this time going higher up the chain of command. She wrote a letter to the City Council stating that "the developer did not follow the guidelines" laid out in the contract. She was fired by Smith in May 2002.

There is one home out of 23 in the Village at Euclid development that does have the notice of restriction alongside the deed at the Recorder's Office. That home belongs to Joyce and Calvin Yeldell -- Smith's sister and brother in law.

The home purchased by the Yeldells wasn't one of the designated "affordable units." SEDC officials said Smith's kin bought a market-rate home and didn't receive any direct agency assistance. Because of the agency's participation in the project, the Yeldells were required by contract to live in the home for at least the first 10 years and not rent it out.

In July 2001, after the homes in Village at Euclid had been bought and occupied, SEDC called a meeting with homeowners to attempt to get the notices on the homes after the fact. It was unsuccessful. Leading the efforts was SEDC consultant Angela Harris.

Skyline Terrace Estates

Harris would be involved in another partnership between SEDC and Carter Reese -- but this time as a customer, not a consultant.

Interest was high when Jarrett laid down his plans to build 28 new, for-sale homes in the Skyline neighborhood. In a December 2002 letter to SEDC, Jarrett wrote that his firm had an "interest list of more than 600" people, who would receive brochures on the homes that would become Skyline Terrace Estates.

Four of the homes would be offered to low-and-moderate income residents at a restricted price, thanks to a \$140,000 loan being offered from SEDC's affordable housing fund.

Harris was selected as one of the four homebuyers to receive an affordable unit, and in 2004, she purchased the home for \$280,000. She signed a notice of restriction that required any future owner qualify for the income requirements for the following 10 years.

Harris started working for SEDC in 1999 and eventually began receiving sole-source contracts in 2005. Sole-sourcing allows Smith to grant Harris contracts without opening them up to bids from other applicants. She has received regular contract extensions: a \$45,000 contract in 2000; \$30,000 in February 2002 and another \$45,000 in August 2002; \$45,000 in July 2003; \$50,000 in October 2004; and \$50,000 in August 2005.

She also received \$140 an hour working as a consultant to SEDC's Entrepreneur Academy in 2005, turning in invoices of \$3,500 and \$1,960 in 2005. As part of her job, Harris hosts a weekly luncheon for property managers. Among the duties in some of her contracts: "providing information and verification of affordable housing laws and requirements per redevelopment law."

She said that she got her name in early to apply for the affordable housing, which was handed out on a first-come, first-serve basis. Some agencies choose to do lotteries to determine the buyers of their affordable homes. "Being that I am on the Project Area Committee (a local redevelopment advisory group) and being that I'm very active in the community, there are very few developments coming up that I'm not familiar with," she said. "And so even before they poured any concrete or put up one piece of stick, I was on the waiting list for Reese Jarrett, or Carter Reese."

Harris said she received no special treatment. "I went through the same thing as every single homeowner here," she said.

Robert Stern, author of the 1972 Political Reform Act, said Harris' arrangement is troublesome. "Even if her name was pulled out of a hat, it

still raises a question -- and I bet her name was not pulled out of a hat," he said. "The question is favoritism."

"You have to be as clean as you can and as hands-off as you can," Stern added. "The problem is that these [homes] are so desirable that it's very tempting to play favorites. Particularly in the past few years."

Jones, SEDC's outside attorney, said Harris received no special treatment. "She's previously a resident of the community. That allowed her to qualify," he said. In fact, disqualifying Harris from purchasing the home because of her employment could have opened up the agency to a job discrimination lawsuit, Jones said

The contract for the project mandated that applicants for the affordable homes earn no more than 120 percent of the area median income, according to standards set by the U.S. Department of Housing and Urban Development. Under those standards for 2004, a single person could make no more than \$53,250.

Harris reported earning \$67,555 in 2003, according to statements of economic interest on file with the San Diego City Clerk's Office. She reported \$45,000 in income from SEDC and \$22,555 from two other consulting jobs. Her 2004 filing doesn't contain specific income figures; she checked a box indicating that her annual income was between \$10,001 and \$100,000.

The San Diego Housing Commission allows the self-employed to subtract their business expenses from their gross income when qualifying for affordable housing, using instead the income reported on their tax returns. Harris declined to provide a copy of her tax return to *voiceofsandiego.org*. SEDC has the right to monitor an owner's income annually to ensure they still comply with the affordable housing income requirements, but officials said it doesn't perform the regular check-ups.

Harris refinanced her mortgage within the first year of buying the home, pulling out \$80,000 in equity and taking on a \$360,000 mortgage. She pulled \$44,000 in equity out of the home again in March 2005, pushing her primary mortgage up to \$404,000.

Many housing authorities restrict the refinancing of affordable homes -- allowing them to approve or deny attempted refinancing -- with the belief that public funds shouldn't be used to allow a homeowner to cash out large sums of equity. For instance, the San Diego Housing Commission must

approve all refinancing of the affordable homes it oversees. It permits refinancing only when the cash pulled out does not exceed 10 percent of the principal loan balance and that the cash is used for home improvements.

SEDC officials said they are working on a policy to manage refinancing, but currently don't monitor it. Jones, the attorney, said they believe the Housing Commission's regulations are draconian.

Smith said she doesn't believe the agency should inhibit someone from refinancing their affordable home in order to put cash toward something such as putting homeowner's children through college. "That shouldn't inhibit them from doing that, but also we recognize that we want to retain the affordability of the unit, so that's really important to us, so we're working through that as we speak," she said.

Smith said SEDC does not screen the homebuyers chosen by its developers for the affordable units, a practice that other agencies employ.

"We don't look at that, we don't say anything about that," she said.

"[Harris] put her name in. She's one of the Southeastern residents. She lived in the area."

"She has every right and is encouraged to do so," she said. "We want professionals to be in this community."

The loan and housing agreement between the developer and the Redevelopment Agency, the umbrella organization that oversees SEDC, forbids agency employees from having a personal interest in its own projects.

Stern, who is president of the nonpartisan political-reform group Center for Governmental Studies in Los Angeles, said although consultants are not considered employees or members of agencies, the intent of the conflict code remains the same.

"Certainly the intent was there not to have any insider trading, or insider purchasing in a sense," he said. "There should have been a red flag raised." *Sam Hodgson contributed to this report.*

Report: Developer 'Almost Cavalier' in Troubled Deal

By ANDREW DONOHUE Voice Staff Writer

Friday, May 4, 2007 | Housing developer Carter Reese & Associates appears to have breached the terms of its loan agreement with the city of San Diego in 2000 by failing to provide a required number of affordable homes, according to a report by the City Attorney's Office.

The report says the city agency handling the project, the Southeastern Economic Development Corp., also failed to hold the developer accountable by not enforcing the terms of the contract, which required the developer to place restrictions on the homes' deeds to ensure they stayed in the hands of low- and moderate-income residents for 10 years.

Additionally, the report found the appearance of favoritism in Carter Reese's awarding of an affordable unit in 2002 to an SEDC contractor, Angela Harris.

"There is no record that SEDC, the Developer, or the Housing Commission analyzed Ms. Harris' financial eligibility to purchase income restricted housing," the report states.

The city attorney report, however, said no evidence of intentional misconduct or misuse of public funds had been encountered based on the facts and circumstances reviewed to date. The report, released last week, was requested by two City Council members following an October investigation by *voiceofsandiego.org*, which found that the lines of SEDC's affordable housing program had been stretched, and at times crossed, by homeowners, Carter Reese and the contractor.

The investigation found that SEDC and the developer had failed to file the proper paperwork to empower the agency's monitoring of the homes, allowing them to be sold repeatedly for sizable profits in the midst of a sizzling housing market. If the paperwork had been filed, SEDC would've been able to ensure that any future buyers for the next 10 years qualified for low- and moderate-income housing.

The investigation also revealed that Carter Reese had been allowed to sell a number of homes for at least \$10,000 more than was authorized by the City Council in the 2000 Village at Euclid development.

The city attorney's report, requested by Council members Tony Young and Donna Frye, noted that opportunities existed for both the developer and SEDC to rectify the affordable housing problems.

"Perhaps the most troubling aspect of the Village at Euclid is the fact that both the Developer and SEDC were aware of the recordation problem in July 2000," it states. The report says Carter Reese's mishandling of the documentation "appeared to be almost cavalier, with little real effort to remedy shortcomings, even after brought to the Developer's attention." The report points out that SEDC President Carolyn Smith recommended moving the agency's affordable housing oversight to the San Diego Housing Commission following the publication of the article.

"Although the proper recordation of restrictive documents and an impartial selection process for affordable home buyers are important fundamentals," the city attorney report states, "it would be an overstatement to conclude or imply that SEDC has failed in its overall goal of developing affordable housing in southeast San Diego, based on these particular errors."

The report also comes with a host of policy recommendations to prevent these troubles from recurring. They include:

- * Requiring all affordable units to be sold through a lottery to avoid the possible appearance of impropriety. The Housing Commission already uses such a lottery.

- * Strengthening agencies' position to guard public funds used in housing developments by allowing them to levy sanctions or penalties if a contract is breached.

"The Developers (sic) limited liability status has precluded subsequent enforcement on the contract, such as requiring Carter Reese to purchase a unit at market price (if and when one becomes available) and resell the unit at an affordable price with deed restrictions," the report states.

- * Forcing any developer receiving public funds to maintain and disclose all records relating to the project for review by the city. The report found occasions in which it was impossible to come to a conclusion on an issue because of the lack of access or documentation.

- * Requiring developers to retain knowledgeable and competent staff.

A young, inexperienced sales representative named Darryl Forte handled the closings in Village at Euclid and was apparently unaware of the documentation requirements, according to the report.

His supervisor, Percy Williams, had complaints filed against her in 1997, 1998 and 1999 with the Department of Real Estate for failing to adequately supervise her employees, the report states.

Both Smith and Harris, the consultant, have said Harris received no special treatment in the awarding of the affordable home. Attempts to reach SEDC and City Attorney Mike Aguirre to comment for this story were unsuccessful. Carter Reese declines to comment to *voiceofsandiego.org*.